

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Policy and Steering Committee on Ways and Means

BILL: CS/SB 1646

INTRODUCER: Transportation and Economic Development Appropriations Committee and Senator Fasano

SUBJECT: Regional Workforce Boards

DATE: March 22, 2010 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Belcher</u>	<u>Noble</u>	<u>TA</u>	<u>Fav/CS</u>
2.	<u>Belcher</u>	<u>Coburn</u>	<u>WPSC</u>	<u>Favorable</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill:

- Prohibits the expenditure of federal or state funds to pay for food and beverage for board members, staff, or employees of regional workforce boards, Workforce Florida, Inc., or the Agency for Workforce Innovation, except as expressly authorized by state law;
- Prohibits the expenditure of federal or state funds for recreational activities or entertainment costs on behalf of or to the benefit of board members, staff, or employees of regional workforce boards, Workforce Florida, Inc., or the Agency for Workforce Innovation;
- Prohibits regional workforce board members and their relatives from contracting with or having a financial interest in a contract established by the regional workforce board upon which the board member serves;
- Allows a board to contract with a public or a not-for-profit entity that has a representative who is a member of the board; however, requires that the contract must be approved by two-thirds vote of the entire board and that the board member who could benefit financially from the transaction or who is employed by or receives remuneration from the contracting entity abstain from voting on the contract;
- Requires board members to disclose all conflicts;

- Extends the contracting prohibition to the board's employees and relatives of the employees;
- Requires that the appointment of an executive director to staff a regional workforce board be approved by the chief elected officials; and
- Requires that the chair of a regional workforce board be subject to confirmation by the Senate.

This bill substantially amends section 445.007 of the Florida Statutes.

II. Present Situation:

Chapter 445, F.S., created the Workforce Innovation Act of 2000. The Act established a three-tier system for workforce services. The workforce system includes:

- Workforce Florida, Inc. (WFI) as the principal workforce policy organization for the state. It is governed by a public/private board of directors, appointed by the Governor. Private sector representatives are appointed by nominations received by the Governor, including nominations received by the Senate President and Speaker of the House of Representatives.
- The Agency for Workforce Innovation (AWI) as the state's administrative/fiscal agent designated for receipt of federal workforce development funds and other federal funds. AWI has the statutory responsibility for ensuring that the state appropriately administers federal and state workforce funding by administering the plans and policies of Workforce Florida, Inc., under contract with Workforce Florida, Inc.
- Twenty-four (24) Regional Workforce Boards (RWBs) are the local planning and workforce service delivery systems. The RWBs operate under a Charter approved by Workforce Florida, Inc.

The county or city governing bodies, within a RWB's designated service area, enter into an inter-local agreement to establish the local parameters under which the regional workforce board will operate. This includes the manner in which board members are appointed. Once board appointments are made, board members select a chair. The board chair may serve for a term of not more than 2 years and cannot serve more than two terms. Board membership must comply with the requirements outlined in Public Law No. 105-220, Title I, s. 117(b).

If a board enters into contract with an organization or individual represented on the board of directors, the contract must be approved by a two-thirds vote of the entire board and the board member who could benefit financially from the contract must abstain from voting on said contract. Current law further provides that a board member must disclose any such conflict in a manner consistent with the requirements of section 112.3143, F.S.

Current law does not specifically prohibit employees or their relatives from contracting with the board.

The appointment of an executive director to staff a regional workforce board is made by the board members. Additionally, the chairman of the regional workforce board is elected by its members and is not subject to Senate confirmation.

Regional workforce boards are currently subject to and must adhere to federal and state requirements regarding the expenditure of funds. Federal rules currently prohibit the expenditure of federal grant funds for “entertainment costs”.

In November 2009, following allegations of misuse of funds by the Tampa Bay Workforce Alliance (TBWA), the Director of AWI directed the agency’s Inspector General to investigate expenditures of funds by TBWA.¹ The investigation was initiated pursuant to section 20.055, F.S., to review expenditure of funds by TBWA, pursuant to awards made through AWI. The purpose of the investigation was to determine the validity of reports and the appropriateness of expenditures associated with meals, food and refreshments.²

The investigative report (dated January 20, 2010) was predicated upon the request from the Director of AWI and informational reports that indicated that the TBWA may have misused funds by spending unreasonably for food from several local area restaurants for staff and other activities.³

The Office of Inspector General (OIG) conducted an independent comprehensive review of documents of food expenditures during TBWA sponsored meetings, events, receptions and banquets. The OIG identified \$133,714.34 in expenditures relating to events and meetings that appeared to have involved food purchases. The records indicate that \$27,122.69 of the food purchases were charged to the TBWA corporate credit card. Many of the food purchases were restaurant meals that cost over \$30 per person.⁴

The OIG review of expenditures made for the period November 1, 2008, through November 30, 2009, found the following deficiencies as it relates to the way in which the Board purchased food:⁵

- Many of the expenditures directly benefited individuals rather than program activities and therefore, resulted in a waste of tax payer funds.
- \$24,477.13 was determined to be unallowable and should be repaid to the government.
- \$81,231.92 was determined to be questionable and requires further explanation and documentation.
- There was a lack of internal controls on food purchases.
- Other than reported informal verbal limitations given to some staff, there was no evaluative consideration of meal costs.

¹ Email from Cynthia Lorenzo, Director of AWI, to Senator Mike Fasano, Senator Ronda Storms, and Representative Rich Glorioso, dated Friday, January 22, 2010; copy on file in the Transportation and Economic Development Appropriations Committee.

² Letters dated January 21, 2010, to the chair of the TBWA and to the director of AWI from the AWI Inspector General.

³ Office of Inspector General, AWI, Project number 2009-10-0068, “Investigation of Food Expenditures at Tampa Bay Workforce Alliance,” p. 2.

⁴ Ibid, p. 4.

⁵ Ibid, p. 6.

- There were no policy directives from Tampa Bay Workforce Alliance Board regarding food purchases.
- There did not appear to be appropriate checks and balances regarding the use of business credit cards which would have included sufficient monitoring of their use in purchasing meals.
- There were incomplete records of credit card food expenditures in some cases which did not sufficiently document the expenditure purpose and beneficiary.
- The purchase of meals became frequent, and to a large part, routine at day-to-day agency sponsored business meetings involving discussions of the internal procedures or operations of the agency.
- Gratuities and delivery charges were paid routinely when ordering food, sometimes with food establishments within walking distance.
- The cost of meals with associated delivery and gratuities, in some cases, were excessive.
- Meals in many cases did not meet the reasonable and necessary tests pursuant to Federal Circular A-122.

Based on the investigation, the OIG determined that 21% of the expenditures reviewed were allowable, 18% were unallowable, and 61% were questionable.⁶

In December 2009, pursuant to direction from the Governor and pursuant to section 445.004(5), F.S., WFI, as the principal workforce policy organization for the state, adopted a statewide policy directive prohibiting the expenditure of state or federal funds for any food, beverage, and dining activities through June 30, 2010, at all 24 regional workforce boards and the statewide board. The prohibition does not affect reimbursements for meals consistent with any board's approved travel policy.

III. Effect of Proposed Changes:

The bill amends Chapter 445.007, F.S., to prohibit any state or federal funds from being used, directly or indirectly, to pay for food and beverage for board members, staff, or employees of regional workforce boards, Workforce Florida, Inc., or the Agency for Workforce Innovation, except as expressly authorized by state law. Such expenditures are explicitly deemed not reasonable or necessary. The bill clarifies that preapproved, reasonable, and necessary per diem allowances and travel expenses may be reimbursed, in accordance with section 112.061, Florida Statutes.

Further, the bill prohibits federal or state funds from being used to pay for recreational activities or entertainment costs on behalf of, or to the benefit of, board members, staff or employees of regional workforce boards, Workforce Florida, Inc., or the Agency for Workforce Innovation.

The bill also prohibits regional workforce board members and their relatives from contracting with or having a financial interest in a contract established by the regional workforce board upon which the board member serves. The prohibition on contracting with a board member is also extended to include a board member's relatives as defined in section 112.3143(1)(b), F.S.

⁶ Ibid, p. 27.

The bill allows the boards to contract with a public or a non-profit organization that has a representative who is a member of the board; however, the contract must be approved by a two-thirds vote of the entire board and the board member who could benefit financially from the transaction or who is employed by and receives remuneration from the contracting entity, must abstain from voting on the contract.

The bill further clarifies that a board member must disclose all conflicts in a manner that is consistent with the requirements outlined in s. 112.3143, F.S.

Additionally, a prohibition on contracting with the regional workforce board is extended to include employees of the board and their relatives as defined in section 112.3143(1)(b), F.S. The only exception to the prohibition on contracting is the employee's employment contract. The term "relative" as defined in section 112.3143(1)(b), F.S., includes, any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law.

The bill requires that the appointment of an executive director to staff the regional workforce board be approved by the chief elected officials [in that region]. It also requires that the chair of a regional workforce board be subject to Senate confirmation.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. **Government Sector Impact:**

It is anticipated that expenditures for meals, food, beverage, and entertainment would be reduced and these funds would be redirected to the delivery of direct workforce services to the citizens of the state. The amount of redirected funds is indeterminate.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Additional Information:**

A. **Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by the Transportation and Economic Development Appropriations Committee on March 19, 2010:

The CS differs from the bill as filed in the following way:

- Prohibits the expenditure of federal or state funds to pay for food and beverage for board members, staff, or employees of regional workforce boards, Workforce Florida, Inc., or the Agency for Workforce Innovation, except as expressly authorized by state law;
- Prohibits the expenditure of federal or state funds for recreational activities or entertainment costs on behalf of or to the benefit of board members, staff, or employees of regional workforce boards, Workforce Florida, Inc., or the Agency for Workforce Innovation;
- Prohibits regional workforce board members and their relatives from contracting with or having a financial interest in a contract established by the regional workforce board upon which the board member serves;
- Allows a board to contract with a public or a not-for-profit entity that has a representative who is a member of the board; however, requires that the contract must be approved by two-thirds vote of the entire board and that the board member who could benefit financially from the transaction or who is employed by or receives remuneration from the contracting entity abstain from voting on the contract;
- Requires board members to disclose all conflicts;
- Extends the contracting prohibition to the board's employees and relatives of the employees;
- Requires that the appointment of an executive director to staff a regional workforce board be approved by the chief elected officials; and
- Requires that the chair of a regional workforce board be subject to confirmation by the Senate.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
